

**BEFORE THE WEST VIRGINIA BOARD OF MEDICINE**

**IN RE: DANNY RAY WILLS, M.D.**

**ORDER OF REVOCATION OF LICENSE  
TO PRACTICE MEDICINE AND SURGERY**

1. Danny Ray Wills, M.D. ("Dr. Wills") holds a license to practice medicine and surgery in the State of West Virginia, License No. 10582, issued originally in August, 1975, by the West Virginia Board of Medicine. Dr. Wills' address of record with the Board is in Princeton, West Virginia.

2. On August 27, 2009, Dr. Wills entered a plea of guilty in the United States District Court, Southern District of West Virginia, to one (1) count of acquiring and obtaining possession of a quantity of hydrocodone by misrepresentation, fraud, deception and subterfuge, ending May 5, 2009, 21 U.S.C. § 843(a)(3), in Case Number 1:09-CR-00159-01, United States of America v. Danny Ray Wills.

3. Thomas E. Johnston, Judge of the United States District Court, Southern District of West Virginia, stated at the Plea Hearing that "there is a basis in fact for the tendered plea" and confirmed that in the detailed Stipulation of Facts in the case in the files that were seized pursuant to the administrative warrant in this matter, "was correspondence between GIV, which is a company that provided the hydrocodone pills to Dr. Wills—between that company and Dr. Wills in January of 2009, indicated that GIV had, in fact, questioned Wills about his excessive or atypical hydrocodone orders. In response, Wills assured GIV that he was acquiring the hydrocodone to dispense to patients. He did not advise that he was taking any of the

hydrocodone himself.” Plea Hearing Transcript, pp. 23-24, 26. Incorporated by reference herein is a copy of the Plea Hearing Transcript, Exhibit 1.

4. On December 17, 2009, Irene C. Berger, Judge of the United States District Court, Southern District of West Virginia, stated at the Sentencing Hearing that Dr. Wills, who was also the Sheriff of Mercer County, West Virginia, “ordered drugs, paid for them with funds that were specifically allotted to the sheriff’s budget. There are factual statements contained in the pre-sentence report in addition that drugs were prescribed for at least one other individual, and the drugs were for the defendant’s own personal use.” Sentencing Hearing Tr., p. 11. Incorporated by reference herein is a copy of the Sentencing Hearing Transcript, Exhibit 2.

5. On December 17, 2009, Judge Berger further stated at the Sentencing Hearing that “there are, based on the calculations in the pre-sentence report, approximately 4,500 hydrocodone pills which were actually purchased. And most of those pills, almost 4,300 of them, 4,296 were unaccounted for. Based on the facts of the case, 31 of those could be traced to patients. There were 173, Mr. Wills, in your possession when the search was conducted. And, again, according to the facts contained in the report, there were 4,296 of them which could not be accounted for.” Sentencing Hearing Tr. p. 16, Exhibit 2.

6. On December 17, 2009, Judge Berger imposed Judgment, and on January 5, 2010, Judge Berger entered Judgment in a Criminal Case whereby Dr. Wills was sentenced to six (6) months in prison and supervised release for a period of one (1) year following imprisonment, as well as payment of criminal monetary penalties.

7. Under the provisions of 21 U.S.C. § 843 (d) and 18 U.S.C. §3559(a)(5), a violation of 21 U.S.C. § 843(a)(3) is a felony.

8. Under the provisions of West Virginia Code §30-3-14(d):

The board... shall revoke the license of any physician ... licensed ... within this state who, is found guilty by any court of competent jurisdiction of any felony involving prescribing, selling, administering, dispensing, mixing or otherwise preparing any prescription drug, including any controlled substance under state or federal law, for other than generally accepted therapeutic purposes. Presentation to the board of a certified copy of the guilty verdict or plea rendered in the court is sufficient proof thereof for the purposes of this article.

9. Incorporated by reference herein is a certified copy of the six (6) page Judgment in a Criminal case entered January 5, 2010, by Irene C. Berger, Judge, United States District Court, Southern District of West Virginia, in the case United States of America v. Danny Ray Wills, Case Number 1:09-CR-00159-01, Exhibit 3.


10. Copies of the above-referenced documents Exhibits 1, 2, and 3, all having been presented to the Board of Medicine at a regular meeting of the Board on March 8, 2010, where a quorum of the Board was present and voting, the Board determined that Dr. Wills has been found guilty by a court of competent jurisdiction of a felony involving prescribing, selling, administering, dispensing, mixing or otherwise preparing a prescription drug including a controlled substance (hydrocodone) under state or federal law for other than generally accepted therapeutic purposes.


11. The Board concluded that as a matter of law, the license to practice medicine and surgery of Dr. Wills, License No. 10582, must be REVOKED under the provisions of West Virginia Code § 30-3-14(d), and accordingly, the Board voted in accordance with Board rule 11 CSR 3 7 at said regular meeting to REVOKE the license to practice medicine and surgery of Dr. Wills, effective March 10, 2010. Ms. Hays did not participate in any discussion or voting in this matter.

WHEREFORE, it is ORDERED that the license to practice medicine and surgery of Danny Ray Wills, M.D., License No. 10582, issued by the Board in August, 1975, is REVOKED, effective March 10, 2010.

Entered this 8<sup>th</sup> day of March, 2010.

WEST VIRGINIA BOARD OF MEDICINE

  
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John A. Wade, Jr., M.D.  
President

  
\_\_\_\_\_  
Catherine Slemp, M.D., M.P.H.  
Secretary

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

**BLUEFIELD DIVISION**

UNITED STATES OF AMERICA,  
Plaintiff,

v.

DANNY RAY WILLS, M.D.,  
Defendant.

Criminal Action  
No.1:09-00159-1

DATE: August 27, 2009

**TRANSCRIPT OF PLEA HEARING  
BEFORE THE HONORABLE THOMAS E. JOHNSTON  
UNITED STATES DISTRICT JUDGE  
IN BECKLEY, WEST VIRGINIA**

**APPEARANCES:**

For the Government: AUSA MONICA K. SCHWARTZ  
U.S. Attorney's Office  
P. O. Box 1713  
Charleston, WV 25326-1713

For the Defendant: MARK E. WILLS  
Wills Law Office  
1617 N. Walker St.  
Princeton, WV 24740

WILLIAM B. FLANIGAN  
Sanders, Austin, Flanigan & Flanigan  
320 Courthouse Road  
Princeton, WV 24740

Probation Officer: THOMAS D. STEVENS, JR.

Court Reporter: Teresa L. Harvey, RMR, RDR, CRR

Proceedings recorded by mechanical stenography;  
transcript produced by computer.

1 Proceedings had before the Honorable Thomas E. Johnston,  
2 United States District Judge for the Southern District of West  
3 Virginia, in Beckley, West Virginia, on August 27, 2009:

4 **COURTROOM DEPUTY CLERK:** The matter before the  
5 Court is the United States v. Danny Ray Willis (*sic*), case  
6 No. 1:09-cr-159, scheduled for plea hearing.

7 **THE COURT:** Good afternoon. Would counsel please  
8 note their appearances?

9 **MS. SCHWARTZ:** Your Honor, Monica Schwartz on behalf  
10 of the United States, and with me I have three agents: Mike  
11 Smith of the West Virginia State Police, Dominic Grant of DEA,  
12 and Mike Yansick of FBI.

13 **MR. WILLS:** Mark Wills on behalf of Danny Wills.

14 **MR. FLANIGAN:** Your Honor, I'm Bill Flanigan on  
15 behalf of Danny Wills.

16 **THE COURT:** Good afternoon. Which of you will be  
17 speaking on behalf of the defendant today?

18 **MR. WILLS:** I will, Your Honor.

19 **THE COURT:** All right. Thank you.

20 will the defendant please stand. And I'll ask the deputy  
21 clerk to administer an oath at this time.

22 **COURTROOM DEPUTY CLERK:** Please raise your right  
23 hand.

24 (*Defendant placed under oath.*)

25 **THE COURT:** You may be seated. Mr. Wills, do you

1 understand that you are now under oath and you must tell the  
2 truth, and if you testify falsely you may face prosecution for  
3 perjury or for making a false statement?

4 *THE DEFENDANT:* Yes, Your Honor.

5 *THE COURT:* All right. We might want to get one of  
6 those microphones a little bit closer to the defendant so that  
7 I can -- so that I'm able to hear him and, more importantly, so  
8 that the court reporter is able to hear him.

9 Mr. Wills, throughout the course of this hearing I'm going  
10 to be asking you a number of questions, and I want to make sure  
11 that you and I are communicating clearly, so if at any time you  
12 don't understand the question that I ask, or anything else that  
13 occurs in this proceeding, I want you to feel free to speak up  
14 and seek clarification. Also, if at any time you need to  
15 confer with your attorneys, I'll be pleased to pause the  
16 proceedings to allow you to do so.

17 Do you understand all that?

18 *THE DEFENDANT:* Yes, Your Honor.

19 *THE COURT:* All right. Let me begin by asking you,  
20 how old are you?

21 *THE DEFENDANT:* I'm 63.

22 *THE COURT:* And can you briefly describe your  
23 educational background?

24 *THE DEFENDANT:* I have graduated from Princeton High  
25 School, went to Concord College. It was Concord College then.

1 I graduated there with a B.S. in chemistry; went to West  
2 Virginia University Medical School and graduated from there  
3 with an M.D. degree, and did a residency in family practice at  
4 Charleston Area Medical Center.

5 *THE COURT:* Just for the record, can you read and  
6 write and understand the English language?

7 *THE DEFENDANT:* Yes, I can, Your Honor.

8 *THE COURT:* And can you briefly describe your work  
9 experience?

10 *THE DEFENDANT:* I didn't hear that question clearly.

11 *THE COURT:* Can you briefly describe your work  
12 experience?

13 *THE DEFENDANT:* After leaving residency in  
14 Charleston, I practiced in a private setting for eight years  
15 in Bluefield, West Virginia. At that point, I was recruited  
16 by the hospital to work in the emergency room at Bluefield  
17 Community Hospital. I worked for them for approximately 20  
18 years, for a total of about 28, 29 years of medical practice.

19 At that point, I ran for Sheriff of Mercer County and was  
20 elected sheriff, and since January of '05 until June 16 of '09  
21 I was Sheriff of Mercer County, when I resigned.

22 *THE COURT:* Have you taken any medicine or drugs, or  
23 consumed any alcoholic beverages, within the last 24 hours?

24 *THE DEFENDANT:* Only -- no scheduled substances, just  
25 blood pressure medication, medication for heart rhythm, and I



1 suppose arthritis medicine is all.

2           **THE COURT:** Can you tell me the names of the  
3 medications you've taken?

4           **THE DEFENDANT:** Atenolol; ropinirole; digoxin, which  
5 is presently being withheld; ketoprofen, which I take on a PRN  
6 basis for arthritis; diovan HCT for blood pressure; one baby  
7 aspirin a day; and warfarin. It's an anticoagulant.

8           I believe that's all of them, sir.

9           **THE COURT:** And you have taken all these medications  
10 within the last 24 hours?

11           **THE DEFENDANT:** All that would -- all that I was  
12 supposed to take, yes.

13           **THE COURT:** All right. And with regard to the ones  
14 you've taken within the last 24 hours, are you suffering from  
15 any side effects from any of those medications, as we sit here  
16 today, that would in any way impair your ability to fully  
17 participate in this hearing?

18           **THE DEFENDANT:** No, Your Honor.

19           **THE COURT:** Have you ever been treated for any mental  
20 illness or addiction to drugs of any kind?

21           **THE DEFENDANT:** I voluntarily went for alcohol  
22 treatment in 2002.

23           **THE COURT:** All right. Do you know where -- where  
24 you are and why you're here today?

25           **THE DEFENDANT:** Can you repeat that, Your Honor?

1           **THE COURT:** Do you know where you are and why you're  
2 here today?

3           **THE DEFENDANT:** Yes.

4           **THE COURT:** Do you have any hearing impairment or  
5 other disability which would in any way impair your ability to  
6 fully participate in this hearing today?

7           **THE DEFENDANT:** I can understand what you're saying,  
8 Your Honor.

9           **THE COURT:** Do you have any trouble hearing me?

10          **THE DEFENDANT:** I've been having a little bit of  
11 hearing problem the last two or three months, but it's not --  
12 it's not significant, I don't think, for this hearing.

13          **THE COURT:** I want to make sure that you can hear  
14 everything, so most of the hearing is going to be me asking you  
15 questions and you answering, but there are some other people  
16 who are going to speak, and if at any time you don't hear  
17 something I want you to speak up and we want to make sure that  
18 you can hear everything that occurs in this hearing.

19          Do you understand?

20          **THE DEFENDANT:** Yes, Your Honor.

21          **THE COURT:** All right. Mr. Wills -- this is going  
22 to get confusing. I'm going to refer to the defendant as  
23 Dr. Wills and the attorney as Mr. Wills.

24          Mr. Wills, do you have any reason to question the  
25 competence of your client?

1           **MR. WILLIS:** No, your Honor, I do not.

2           **THE COURT:** All right. And do you or any other  
3 member of your firm or -- I'll address this to Mr. Flanigan:  
4 Do either of you represent anyone who might have an interest in  
5 the outcome of this matter?

6           **MR. FLANIGAN:** No, Your Honor.

7           **MR. WILLIS:** No, Your Honor.

8           **THE COURT:** All right. Thank you.

9           Ms. Schwartz, do you have the original of the plea  
10 agreement?

11           **MS. SCHWARTZ:** Yes, Your Honor, and the  
12 certificate -- or the receipt indicating the \$100 special  
13 assessment has been paid.

14           **THE COURT:** All right. Would you please tender those  
15 both to the Court.

16           All right. I will make the receipt a part of the record  
17 for this proceeding.

18           I'm now going to ask Ms. Schwartz to summarize the terms  
19 of the plea agreement.

20           And, Dr. Willis, I will ask that you listen carefully as  
21 she summarizes the agreement you've reached with the  
22 Government.

23           **MS. SCHWARTZ:** The plea agreement is in a letter form  
24 dated June 19, 2009, addressed to counsel for Dr. Willis.

25           Paragraph 1 sets forth the charging agreement, that is,

1 the information that has been filed in this case.

2 Paragraph 2 sets forth the resolution of charges whereby  
3 the defendant agrees to plead guilty to one charge of acquiring  
4 and obtaining possession of a quantity of hydrocodone by  
5 misrepresentation, fraud, deception and subterfuge.

6 Paragraph 3 sets forth the maximum potential penalty,  
7 including imprisonment for four years; a \$250,000 fine; one  
8 year of supervised release; \$100 special assessment, which has  
9 been paid; denial of federal benefits; and restitution.

10 Paragraph 4 addresses the special assessment, which, as  
11 the Court has indicated, there is a receipt indicating payment.

12 Paragraph 5 relates to payment of monetary penalties.

13 Paragraph 6 sets forth the agreement with regard to  
14 cooperation.

15 Paragraph 7, use immunity.

16 Paragraph 8, the limitations on immunity.

17 Paragraph 9 specifically sets forth the fact that there  
18 is a Stipulation of Facts, and there is an agreement as to a  
19 waiver of the Federal Rule of Evidence 410, pursuant to the  
20 plea agreement.

21 Paragraph 10 sets forth the parties' agreement with regard  
22 to the waiver of appeal and collateral attack.

23 Paragraph 11 sets forth the agreement with regard to the  
24 waiver of FOIA and privacy rights.

25 Paragraph 12 relates to final disposition.

1 Paragraph 13 sets forth the agreement as to the voiding of  
2 the agreement.

3 And, finally, paragraph 14 indicates the entirety of the  
4 agreement.

5 The letter agreement comprises six pages, Your Honor.  
6 On each of the first five pages the defendant has placed his  
7 initials, and on the last page the defendant, Mr. Wills,  
8 Mr. Flanigan, and I have all signed, and the parties have  
9 agreed by their signatures and the initials at the bottom of  
10 each page that they have read, understood and agreed to all  
11 the terms and conditions set forth in the plea agreement.

12 *THE COURT:* Thank you, Ms. Schwartz.

13 Dr. Wills, is that your signature that appears on the  
14 final page of the plea agreement?

15 *THE DEFENDANT:* Yes, Your Honor.

16 *THE COURT:* And are those your initials that appear  
17 on the other pages?

18 *THE DEFENDANT:* Yes, Your Honor.

19 *THE COURT:* And do you understand and agree with the  
20 terms contained in the plea agreement?

21 *THE DEFENDANT:* Yes, Your Honor.

22 *THE COURT:* All right. I'm going to ask you some  
23 specific questions about certain provisions of the plea  
24 agreement, beginning with section 9, which begins on page 3,  
25 and is entitled "Stipulation of Facts and Waiver of Federal

1 Rule of Evidence 410."

2 Now, this section accomplishes a couple of different  
3 things. First of all, it references the Stipulation of Facts,  
4 which is attached to the plea agreement as Exhibit B, and I  
5 want to talk with you about that first.

6 Is that your signature that appears on the fourth and  
7 final page of Exhibit B, the Stipulation of Facts?

8 *THE DEFENDANT:* Yes, Your Honor.

9 *THE COURT:* And have you read the Stipulation of  
10 Facts?

11 *THE DEFENDANT:* Yes.

12 *THE COURT:* And do you agree with the facts contained  
13 in the stipulation?

14 *THE DEFENDANT:* Yes, Your Honor.

15 *THE COURT:* All right. Just to inform you a little  
16 bit about the process from here on out, I will be asking --  
17 after the plea today, I will be asking the probation officer to  
18 prepare a Presentence Investigation Report. That report will  
19 contain detailed recommended factual findings regarding not  
20 only this offense, but also your history and background, among  
21 other things.

22 Now, you and the Government have entered into an agreement  
23 with regard to certain facts in this case, but I want you to  
24 understand that neither the probation office, nor this court  
25 when I ultimately make factual findings at sentencing, are

1 bound by the Stipulation of Facts. Do you understand that?

2 *THE DEFENDANT:* Your Honor, I've been told that all  
3 along.

4 *THE COURT:* All right. And do you further understand  
5 that if the findings of fact that I make at sentencing are  
6 different from, or inconsistent with, the facts set forth in  
7 the stipulation, that you will still be bound by your guilty  
8 plea and would have no right to withdraw it?

9 *THE DEFENDANT:* I understand that, Your Honor.

10 *THE COURT:* All right. The other item addressed in  
11 section 9 is a waiver of Rule 410 of the Rules of Evidence.  
12 Now, that rule, generally speaking, provides that information  
13 and documents related to plea negotiations are generally not  
14 admissible in the Government's case-in-chief, if there is a  
15 subsequent trial. However, under this waiver, you waive that  
16 rule; and if there were to be a subsequent trial in this case,  
17 the Government would be permitted to present the Stipulation  
18 of Facts in its case-in-chief. Do you understand that waiver?

19 *THE DEFENDANT:* Yes, Your Honor.

20 *THE COURT:* Next I want to direct your attention to  
21 section 10 of the plea agreement, which is entitled "Waiver of  
22 Appeal and Collateral Attack," and begins on page 4. Now,  
23 this section relates to a couple of different procedures. One  
24 is an appeal. An appeal is a procedure by which a party in a  
25 criminal case before a district court like this one, often the

1 defendant, goes to the Court of Appeals, after the case at the  
2 direct level is over, and argues that certain errors took place  
3 before the district court.

4 A collateral attack is a procedure by which a defendant,  
5 after a criminal case is over, may file a separate civil  
6 action, sometimes referred to as a habeas corpus petition,  
7 arguing that certain errors took place before the district  
8 court.

9 Now, with that in mind, there are certain waivers  
10 contained in section 10, and I want to go over those with you  
11 now. In the first paragraph of section 10, do you understand  
12 that you waive the right to appeal any sentence of imprisonment  
13 or fine if your sentence is within or below the guidelines  
14 range before any departures or variances, with one exception;  
15 if your attorney objects in this court, you may appeal the  
16 calculation of the guideline range. Do you understand that  
17 waiver?

18 **THE DEFENDANT:** Yes, Your Honor.

19 **THE COURT:** Second, in the second paragraph, do you  
20 also understand that you may not file a later civil proceeding,  
21 sometimes referred to as a collateral attack or a habeas corpus  
22 petition, challenging your plea, conviction, or sentence?

23 **THE DEFENDANT:** Yes, Your Honor.

24 **THE COURT:** Finally, do you understand that you are,  
25 in no event, waiving your right to claim ineffective assistance



1 of counsel, either on appeal or by collateral attack?

2           **THE DEFENDANT:** I didn't understand all of that  
3 question.

4           **THE COURT:** All right. Do you understand that you  
5 are, in no event, waiving your right to claim ineffective  
6 assistance of counsel, either on appeal or by collateral  
7 attack?

8           **THE DEFENDANT:** Yes, Your Honor.

9           **THE COURT:** All right. Finally, I want to refer you  
10 to section 11, which is entitled "Waiver of FOIA and Privacy  
11 Right." Now, this waiver means that you cannot go back after  
12 this case is over and seek documents or other information  
13 about the case from the Government, even with a Freedom of  
14 Information Act request. Do you understand that waiver?

15           **THE DEFENDANT:** Yes, Your Honor.

16           **THE COURT:** And have you reviewed the plea agreement  
17 in detail with your attorneys?

18           **THE DEFENDANT:** Yes, Your Honor.

19           **THE COURT:** And do you believe that you've had  
20 adequate time to discuss your case fully with your attorneys?

21           **THE DEFENDANT:** Yes, Your Honor.

22           **THE COURT:** Have your attorneys answered any  
23 questions that you've had about your case?

24           **THE DEFENDANT:** Yes, Your Honor.

25           **THE COURT:** And, Mr. Wills, during your

1 representation of the defendant has he been cooperative?

2 *MR. WILLS:* Yes, Your Honor, he has.

3 *THE COURT:* Dr. wills, has anything further been  
4 agreed to, either orally or in writing, that is not contained  
5 in the plea agreement?

6 *THE DEFENDANT:* Not that I'm aware of, Your Honor.

7 *THE COURT:* All right. I'll order that the plea  
8 agreement be filed. I will find that the defendant understands  
9 and agrees with the terms contained in the plea agreement. I  
10 will defer accepting or rejecting the plea agreement until  
11 sentencing, after the presentence report has been received and  
12 considered by the Court.

13 Now, Dr. wills, have you received, and read, and reviewed  
14 with your attorney the information that has been lodged against  
15 you?

16 *THE DEFENDANT:* Yes, Your Honor.

17 *THE COURT:* And do you understand the charges  
18 contained in the information?

19 *THE DEFENDANT:* Yes, Your Honor.

20 *THE COURT:* would you like me to read the information  
21 to you, or will you waive the reading of the information?

22 *THE DEFENDANT:* I'll waive that reading.

23 *THE COURT:* All right. As I understand it, you'll be  
24 pleading guilty to a single-count information which charges you  
25 with acquiring and obtaining possession of quantities of

1 hydrocodone by misrepresentation, fraud, deception or  
2 subterfuge, in violation of 21 U.S.C. § 843(a)(3).

3 Now I want to go over that statute and that charge with  
4 you in just a little bit more detail. Section 843(a)(3)  
5 provides, in pertinent part, that:

6 "It shall be unlawful for any person  
7 knowingly or intentionally to acquire or obtain  
8 possession of a controlled substance, in this case  
9 hydrocodone, by misrepresentation, fraud, forgery,  
10 deception or subterfuge."

11 Now, in order to prove that charge against you, the  
12 Government would have to come in here and prove the following  
13 elements of that crime beyond a reasonable doubt, and those  
14 are:

15 First: That you knowingly and intentionally obtained  
16 possession of hydrocodone; and

17 Second: At the time you obtained possession, you knew  
18 the substance was a controlled substance; and

19 Third: You obtained possession of hydrocodone by  
20 misrepresentation, fraud, forgery, deception or subterfuge.

21 Now I want to share with you some definitions that apply  
22 to what I have just told you. Hydrocodone is a Schedule III  
23 controlled substance.

24 "To possess" means to exercise control or authority over  
25 something.

1       An act is done intentionally if done knowing that the act  
2 is one which the law forbids and purposefully intending to  
3 violate the law.

4       An act is done knowingly if done voluntarily and  
5 intentionally and not because of mistake, or accident, or other  
6 innocent reason.

7       Now I want to go over with you the maximum and any minimum  
8 sentences you may face as a result of your plea, and that is a  
9 maximum term of imprisonment of four years; maximum fine of  
10 \$250,000, or twice the gross pecuniary gain or loss resulting  
11 from your conduct, whichever is greater; a maximum term of  
12 supervised release of one year.

13       As a part of any fine that I may impose, you could be  
14 required to pay the costs of incarceration and/or supervision  
15 upon release. Currently, the monthly cost of incarceration is  
16 \$2,157.88; the monthly cost of supervision is \$185.77; and the  
17 monthly cost of community confinement is \$1,990.13.

18       A mandatory special assessment would apply, but I note has  
19 already been paid.

20       Restitution could be ordered if it were found to be  
21 applicable; and federal benefits could be denied for a period  
22 of up to one year.

23       Now I want to talk with you regarding the Federal  
24 Sentencing Guidelines. They are advisory, but they will,  
25 nevertheless, play an important role in your case from here on

1 out. This Court will consider the factors set forth in  
2 18 U.S.C. § 3553(a), including the advisory guideline factors,  
3 in determining the appropriate sentence for your case.

4 I now want to ask you some questions that will help me to  
5 understand your understanding of the Federal Sentencing  
6 Guidelines. Have you discussed with your attorney the various  
7 factors which apply in determining what the sentence may be in  
8 your case under the advisory guidelines?

9 *THE DEFENDANT:* Yes, Your Honor.

10 *THE COURT:* Do you understand that, on this  
11 single-count information, you could not in any event receive a  
12 greater sentence than the statutory maximum that I explained to  
13 you earlier?

14 *THE DEFENDANT:* Yes, Your Honor.

15 *THE COURT:* Do you understand the Court will not  
16 determine the sentence for your case until a later date, when a  
17 presentence report has been completed and both you and the  
18 Government have had an opportunity to challenge the facts and  
19 analysis reported by the probation officer?

20 *THE DEFENDANT:* Yes, Your Honor.

21 *THE COURT:* Do you also understand that under a  
22 concept known as relevant conduct this Court, in determining  
23 the total offense level for sentencing purposes under the  
24 guidelines, may take into account any conduct, circumstances,  
25 or injuries relevant to the crime of which you may be

1 convicted?

2           **THE DEFENDANT:** Yes, Your Honor.

3           **THE COURT:** Do you understand that after the Court  
4 has determined what advisory guidelines apply to your case,  
5 the Court has the authority to vary or depart from the advisory  
6 guidelines and impose a sentence that is more severe or less  
7 severe than the sentence called for by the guidelines?

8           **THE DEFENDANT:** Yes, Your Honor.

9           **THE COURT:** Do you understand that in determining  
10 your sentence the Court is obligated to calculate the  
11 applicable sentencing guideline range, and to consider that  
12 range, possible departures under the guidelines, and other  
13 sentencing factors under 18 U.S.C. § 3553(a)?

14           **THE DEFENDANT:** Yes, Your Honor.

15           **THE COURT:** Do you also understand that, under  
16 certain circumstances, you or the Government may have the  
17 right to appeal the sentence which is imposed upon you?

18           **THE DEFENDANT:** Will you repeat that, Your Honor?

19           **THE COURT:** Yes. Do you also understand that, under  
20 certain circumstances, you or the Government may have the right  
21 to appeal the sentence which is imposed upon you?

22           **THE DEFENDANT:** I do now, Your Honor.

23           **THE COURT:** All right. Do you understand that parole  
24 has been abolished, and if you're sentenced to prison you will  
25 not be released on parole?

1           **THE DEFENDANT:** I understand that, Your Honor.

2           **THE COURT:** Do you understand if the Court accepts  
3 your plea of guilty and the sentence ultimately imposed upon  
4 you is more severe than you had hoped for or expected, you will  
5 still be bound by your guilty plea and would have no right to  
6 withdraw it?

7           **THE DEFENDANT:** I know that, Your Honor.

8           **THE COURT:** Do you understand if you plead guilty to  
9 this single-count information, which charges you with a felony,  
10 you may lose important civil rights, such as the right to vote,  
11 the right to serve on a jury, the right to hold public office,  
12 and the right to own or possess a firearm?

13           **THE DEFENDANT:** I realize that, Your Honor.

14           **THE COURT:** All right. You have the right to have  
15 this matter presented to a federal grand jury, and I want to  
16 explain that process to you briefly. A grand jury is composed  
17 of at least 16, and not more than 23, persons, and at least 12  
18 grand jurors must find that there is probable cause to believe  
19 that you committed the crime with which you are charged before  
20 you may be indicted.

21           Do you see any benefit of having this case presented to a  
22 grand jury?

23           **THE DEFENDANT:** I see no benefit.

24           **THE COURT:** Do you see any prejudice to you of not  
25 having the case presented to a grand jury?

1           **THE DEFENDANT:** No prejudice.

2           **THE COURT:** All right. Your counsel have been  
3 provided with a waiver of Indictment form, and I want to go  
4 over that with you now. It has the style, "United States of  
5 America versus Danny Ray Wills," and the criminal action  
6 number, and is entitled "Waiver of Indictment," and reads as  
7 follows:

8                   "I, Danny Ray Wills, am accused of violating  
9           21 U.S.C. § 843(a)(3). I've been advised of the  
10           nature of the charge, of the proposed information,  
11           and of my rights. I hereby waive in open court  
12           prosecution by indictment and consent that the  
13           proceeding may be by information rather than by  
14           indictment."

15           And there is a space for you to sign and date, and a space  
16 for your counsel to sign, and a space for me to sign.

17           Do you understand what I've just read to you?

18           **THE DEFENDANT:** Yes, Your Honor.

19           **THE COURT:** Is there anything about it you don't  
20 understand, or any questions you have about it?

21           **THE DEFENDANT:** I understand it.

22           **THE COURT:** All right. And are you prepared to  
23 execute the waiver of Indictment?

24           **THE DEFENDANT:** I'm prepared to execute it.

25           **THE COURT:** All right. I would ask that you do so at



1 this time, and that your counsel would sign it and tender it to  
2 the Court.

3 All right. I would note for the record that the defendant  
4 has signed and dated the Waiver of Indictment form, and that  
5 both of his counsel have signed it. I am now signing it as  
6 well, and I will order that it be made a part of the record for  
7 this proceeding.

8 Now, Dr. Wills, I'd like to talk with you about your trial  
9 and constitutional rights.

10 You have the right to plead not guilty and maintain a  
11 not-guilty plea throughout these proceedings, including at  
12 trial.

13 You have the right to be represented by counsel.

14 You have the right to a speedy and public trial by a jury  
15 composed of twelve citizens of this district and one or more  
16 alternates.

17 You have the right to confront and have your attorney  
18 cross-examine the witnesses and have your attorney move to  
19 suppress any evidence he believes was illegally or  
20 unconstitutionally obtained.

21 You have the right not to testify or otherwise incriminate  
22 yourself, and your exercise of this right cannot be held  
23 against you.

24 You have the right to have the Government come in here and  
25 prove its case beyond a reasonable doubt.

1       The jury's verdict would have to be unanimous.

2       You have the right to present evidence on your own behalf,  
3 if you wish, and to subpoena witnesses to testify for you.

4       Do you understand all these rights?

5               *THE DEFENDANT:* I understand all these rights, Your  
6 Honor.

7               *THE COURT:* Any of them you don't understand or you  
8 have questions about?

9               *THE DEFENDANT:* I have no questions.

10              *THE COURT:* Do you understand that these are all  
11 rights that you'll be giving up by entering a plea of guilty?

12              *THE DEFENDANT:* I understand.

13              *THE COURT:* Do you understand that once you've  
14 entered a plea of guilty there is not going to be any trial,  
15 no jury verdict, and no findings of innocence or guilt based on  
16 disputed evidence presented to me or to a jury?

17              *THE DEFENDANT:* I understand.

18              *THE COURT:* Do you understand that once you've  
19 entered a guilty plea, the right to appeal is restricted to  
20 certain issues, among them the jurisdiction of this court,  
21 this Rule 11 plea proceeding, the effectiveness of the  
22 representation provided by your counsel, the sentencing  
23 proceedings, and the sentence itself?

24              *THE DEFENDANT:* I understand.

25              *THE COURT:* Do you believe that you fully understand

1 the consequences of entering a plea of guilty?

2 *THE DEFENDANT:* I fully understand.

3 *THE COURT:* And, Mr. Wills, having reviewed this case  
4 and the plea agreement in detail with your client, do you  
5 believe that he fully understands his rights and fully  
6 understands the consequences of entering a plea of guilty?

7 *MR. WILLS:* Yes, Your Honor, I do.

8 *THE COURT:* All right. I note that there is a very  
9 detailed Stipulation of Facts in this case. Does either side  
10 have any objection to the Court utilizing the stipulation as  
11 the factual basis for the plea?

12 *MS. SCHWARTZ:* The United States has no objection to  
13 that. We would like to add one -- a couple of small details,  
14 Your Honor.

15 *THE COURT:* Certainly.

16 *MR. WILLS:* Your Honor, we have no objection.

17 *THE COURT:* Do you want to do that by way of proffer?

18 *MS. SCHWARTZ:* I'd like to do that by proffer, if  
19 it's acceptable to defense counsel.

20 *THE COURT:* Any objection, Mr. Wills?

21 *MR. WILLS:* No objection.

22 *THE COURT:* All right.

23 *MS. SCHWARTZ:* The facts that the United States  
24 wishes to add to the Stipulation of Facts are as follows:

25 Included in the files that were seized pursuant to the

1 administrative warrant in this matter, correspondence between  
2 GIV, which is a company that provided the hydrocodone pills to  
3 Dr. Wills -- between that company and Dr. Wills in January of  
4 2009, indicated that GIV had, in fact, questioned Wills about  
5 his excessive or atypical hydrocodone orders. In response,  
6 Wills assured GIV that he was acquiring the hydrocodone to  
7 dispense to patients. He did not advise that he was taking  
8 any of the hydrocodone himself.

9 I'm sorry if I puzzled you, Your Honor.

10 *THE COURT:* I thought that was in the stipulation.

11 *MS. SCHWARTZ:* Is it? If it is, I missed it.

12 *THE COURT:* I think it's paragraph 14 of the  
13 stipulation, is it not?

14 *MS. SCHWARTZ:* I apologize, then, Your Honor.

15 You're absolutely right. You're right. I don't need to  
16 add anything, then. I apologize, Your Honor.

17 *THE COURT:* All right. Thank you. All right.  
18 Dr. Wills, will you please stand.

19 As to the single -- the charge contained in the  
20 single-count information, how do you plead, sir, guilty or not  
21 guilty?

22 *THE DEFENDANT:* I plead guilty.

23 *THE COURT:* You may be seated.

24 Counsel has been provided with a written plea of guilty  
25 form. I would ask that you go over that with him, if

1 necessary, sign, and date it. I'll ask at least one of your  
2 counsel to sign it and tender it to the Court.

3 All right. I would note for the record that the defendant  
4 has signed and dated the Written Plea of Guilty form. It's  
5 been witnessed by his counsel, and I will order that it be made  
6 a part of the record for this proceeding.

7 Dr. wills, is this plea the result of any threat or  
8 coercion or harassment of you by anyone?

9 *THE DEFENDANT:* No, Your Honor.

10 *THE COURT:* Is it the result of any promise or  
11 inducement, other than those contained in the plea agreement?

12 *THE DEFENDANT:* No, Your Honor.

13 *THE COURT:* Are you pleading guilty to protect  
14 anyone?

15 *THE DEFENDANT:* No, Your Honor.

16 *THE COURT:* Are you acting voluntarily and of your  
17 own free will in entering this guilty plea?

18 *THE DEFENDANT:* Yes, Your Honor.

19 *THE COURT:* Has anyone promised or predicted the  
20 exact sentence which will be imposed in this case?

21 *THE DEFENDANT:* No, Your Honor.

22 *THE COURT:* Do you understand that no one could know  
23 at this time the exact sentence which will be imposed?

24 *THE DEFENDANT:* I understand that.

25 *THE COURT:* Have your attorneys adequately

1 represented you in this matter?

2           **THE DEFENDANT:** Very well, sir.

3           **THE COURT:** Have your attorneys left anything undone  
4 which you think should have been done?

5           **THE DEFENDANT:** No, Your Honor.

6           **THE COURT:** Have you or your attorneys found any  
7 defense to the charge contained in the information?

8           **THE DEFENDANT:** No, Your Honor.

9           **THE COURT:** Are you, in fact, guilty of the crime  
10 charged in the information? In other words, did you do it?

11           **THE DEFENDANT:** Yes, Your Honor.

12           **THE COURT:** All right. I will find that the  
13 defendant is competent and capable of entering an informed  
14 plea, that the plea is freely and voluntarily made, that the  
15 defendant understands the nature of the charges, and is aware  
16 of the consequences of the plea.

17           I'll find that the defendant understands his rights and  
18 understands that he is giving up these rights by entering a  
19 plea of guilty.

20           I will find that there is a basis in fact for the tendered  
21 plea, and that the elements of the crime charged in the  
22 information have been established. I will accept the plea of  
23 guilty to the information, but will defer adjudging the  
24 defendant guilty until the time of sentencing.

25           I will ask the probation officer to prepare a presentence

1 report.

2 Mr. Wills, it is important -- or, Dr. Wills, it is  
3 important that you cooperate fully with the probation officer  
4 in the preparation of the presentence report. If you fail to  
5 cooperate fully and truthfully, you could be subject to an  
6 enhancement of your sentence or forfeiture of certain sentence  
7 reductions for which you might otherwise be eligible.

8 It's also important that you not commit any additional  
9 crimes between now and sentencing, as there may be additional  
10 punishments imposed for committing additional crimes.

11 I want to give counsel now some dates and deadlines with  
12 regard to sentencing. I'm going to direct that a draft  
13 presentence report be provided to counsel by October 29, 2009.  
14 Objections will be due on November 13. Final presentence  
15 report will be due to the Court on November 30. Sentencing  
16 memoranda from both sides will be due on December 7; and I'll  
17 set this matter for sentencing on December 14 at 9:00 a.m., in  
18 Beckley.

19 Ms. Schwartz, what's the Government's position with regard  
20 to bond?

21 *MS. SCHWARTZ:* Your Honor, the United States notes  
22 that, pursuant to a target letter, Dr. Wills responded to our  
23 office and voluntarily surrendered his DEA certification to  
24 dispense controlled substances. I believe that was back in  
25 June of this year. However, at that time we also asked that he

1 give up possession of any firearms, especially his service  
2 revolver that he had at that time as sheriff, and he agreed to  
3 do that. It was our understanding that he was also giving up  
4 possession of all other firearms; however, I see from the  
5 Pretrial Services Report that he apparently still has firearms,  
6 so other than being somewhat concerned about that fact, the  
7 United States has no intention of seeking detention in this  
8 case.

9           *THE COURT:* Mr. Wills, would you like to address  
10 that?

11           *MR. WILLS:* Yes, Your Honor, I would. Mr. Wills has  
12 no firearms in his home. They have all been taken out, so that  
13 problem is resolved.

14           And I believe he surrendered his license in May when  
15 you-all first spoke with him, not June.

16           *THE COURT:* And has he -- do I recall correctly that  
17 he has a passport?

18           *MR. WILLS:* Yes, Your Honor. He has brought it with  
19 him today to surrender to the probation department.

20           *THE COURT:* All right. Thank you. Well, I will  
21 permit the defendant to be released pending sentencing on a  
22 \$10,000 unsecured bond, subject to the conditions set forth in  
23 the Pretrial Services Report. And I would ask that he  
24 immediately proceed to processing with the bond papers and  
25 with the Marshal's Service following this hearing.



1           **MR. WILLIS:** Thank you, Your Honor.

2           **THE COURT:** Is there anything else we need to take up  
3 today?

4           **MS. SCHWARTZ:** No, Your Honor.

5           **MR. WILLIS:** No, Your Honor.

6           **THE COURT:** All right. Thank you.

7           **MR. FLANIGAN:** Thank you, Your Honor.

8           **MR. WILLIS:** Thank you.

9           *(Proceeding concluded at 2:40 p.m., August 27, 2009.)*

10

11 **CERTIFICATION:**

12           I, Teresa L. Harvey, Official Court Reporter, certify  
13 that the foregoing is a correct transcript from the record  
14 of proceedings in the matter of United States of America,  
15 Plaintiff v. Danny Ray Willis, M.D., Defendant, Criminal Action  
16 No. 1:09-00159-1, as reported on August 27, 2009.

17           *Teresa L. Harvey*

18           s/Teresa L. Harvey, RPR, RMR, RDR, CRR

January 14, 2010

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IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA  
AT BECKLEY

TRANSCRIPT OF PROCEEDINGS

-----X  
UNITED STATES OF AMERICA, :  
vs. : CRIMINAL ACTION  
DANNY RAY WILLS, : NO. 1:09-CR-00159  
Defendant. : December 17, 2009  
-----X

SENTENCING HEARING

BEFORE THE HONORABLE IRENE C. BERGER  
UNITED STATES DISTRICT JUDGE

APPEARANCES:

For the United States: MS. MONICA K. SCHWARTZ  
Assistant U.S. Attorney  
300 Virginia Street, East  
Charleston, WV 25301

For the Defendant: MR. MARK E. WILLS  
Wills Law Office  
1617 North Walker Street  
Princeton, WV 24740

MR. WILLIAM B. FLANIGAN  
Sanders, Austin, Flanigan &  
Flanigan  
320 Courthouse Road  
Princeton, WV 24740

Court Reporter: Lisa A. Cook, RPR-RMR-CRR-FCRR

Proceedings recorded by mechanical stenography; transcript  
produced by computer.

EXHIBIT 2

P R O C E E D I N G S

THE CLERK: The matter before the Court is the *United States vs. Danny Ray Wills*, Case Number 1:09-CR-159, scheduled for sentencing.

THE COURT: Good afternoon, counsel. Would you note your appearances on the record, please.

MS. SCHWARTZ: Good afternoon, Your Honor. Monica Schwartz on behalf of the United States. And with me at counsel table are Diversion Investigator Dominick Grant from the DEA and Special Agent Mike Yansick from the FBI.

MR. MARK WILLS: Good afternoon, Your Honor. I'm Mark Wills on behalf of Dr. Wills.

MR. FLANIGAN: Your Honor, I'm Bill Flanigan on behalf of Dr. Wills.

THE COURT: All right, counsel, are we prepared to proceed in the case of *United States vs. Danny Ray Wills* for purposes of sentencing here this afternoon?

MS. SCHWARTZ: The United States is prepared, Your Honor.

MR. MARK WILLS: The defense is prepared, Your Honor.

THE COURT: All right.

Mr. Wills, would you and the defendant please stand.

And, Madam Clerk, would you administer the oath for me, please.

1 (Defendant sworn)

2 THE COURT: I'm going to refer to you, sir, as  
3 Mr. Danny Wills so that there is no confusion on the record.

4 Mr. Danny Wills, you pled guilty to acquiring and  
5 obtaining possession of a quantity of hydrocodone by  
6 misrepresentation, fraud, deception, and subterfuge in  
7 violation of 21 U.S.C. 843(a)(3) as charged in the  
8 single-count information filed against you.

9 Since the time of your plea, the United States  
10 Probation Office has prepared a pre-sentence report.

11 Mr. Mark Wills, have you had an opportunity to read  
12 that report?

13 MR. MARK WILLS: Yes, Your Honor, I have.

14 THE COURT: And having read the report, is there  
15 any reason that you are aware of why we cannot proceed here  
16 today?

17 MR. MARK WILLS: No, Your Honor.

18 THE COURT: Mr. Danny Wills, have you had an  
19 opportunity to read the report and discuss its contents with  
20 your lawyers?

21 THE DEFENDANT: Yes, Your Honor.

22 THE COURT: Do you understand the contents of the  
23 report?

24 THE DEFENDANT: Yes, Your Honor.

25 THE COURT: Having reviewed the addendum to the

1 report, it appears that neither the Government or the  
2 defendant have any remaining objections to that report. Is  
3 that correct, counsel?

4 MR. MARK WILLIS: That is correct, Your Honor.

5 MS. SCHWARTZ: That's correct on behalf of the  
6 United States, Your Honor.

7 THE COURT: All right. Having reviewed the  
8 report, the Court finds sufficient indicia of reliability to  
9 support the probable accuracy of the information contained  
10 in the pre-sentence report and the addendum to that report.

11 Therefore, the Court adopts the pre-sentence report and  
12 the addendum, and directs the probation office to file a  
13 copy of the pre-sentence report in the court file under  
14 seal.

15 At this time, the Court accepts the plea agreement on  
16 the grounds that the defendant's plea adequately reflects  
17 the seriousness of the actual offense behavior, and that  
18 accepting the agreement will not undermine the statutory  
19 purposes of sentencing or the United States Sentencing  
20 Guidelines. The Court's judgment and sentence will be  
21 consistent with the plea agreement in this case.

22 Pursuant to the defendant's plea of guilty to the  
23 single-count information on August 27th, 2009, and in light  
24 of the fact that Judge Johnston reserved adjudication of  
25 guilt, I adjudge the defendant guilty and he now stands

1 convicted of violating 21 U.S.C. Section 843(a)(3).

2 The defendant stands convicted of acquiring and  
3 obtaining possession of a quantity of hydrocodone by  
4 misrepresentation, fraud, deception, and subterfuge in  
5 violation of 21 U.S.C. Section 843(a)(3). Federal law  
6 provides the following maximum penalties for violating this  
7 statute:

8 A term of imprisonment of four years; a term of  
9 probation of one to five years; a period of supervised  
10 release of one year; a fine of \$250,000; restitution; and a  
11 special assessment of \$100.

12 In light of the Supreme Court's opinion in *Gall* vs.  
13 *United States* and *United States* vs. *Booker*, the United  
14 States Sentencing Guidelines are now advisory and are not  
15 binding on the Court.

16 According to the *Gall* decision, however, I'm still  
17 required to calculate and consider the applicable guideline  
18 range. I must also consider the sentencing factors listed  
19 in 18 U.S.C. 3553(a).

20 And I will begin by calculating, for purposes of the  
21 record, the advisory guideline range. And then I will call  
22 on you lawyers to tell me whether you have any objection to  
23 the calculation.

24 The relevant United States Sentencing Guideline is  
25 found in Section 2D2.2 which provides for a Base Offense

1 Level, Mr. Wills, of eight. Accordingly, the Base Offense  
2 Level is just that, eight.

3 Section 3B1.3 provides for a two-level increase if the  
4 defendant abused a position of public or private trust or  
5 used a special skill in a manner that significantly  
6 facilitated the commission or concealment of the offense.

7 The Court finds that the defendant did abuse a position  
8 of public or private trust or use a special skill in a  
9 manner that significantly facilitated the commission or  
10 concealment of the offense. With that two-level increase,  
11 the offense level is 10.

12 I'll now address the issue of acceptance of  
13 responsibility.

14 Section 3E1.1(a) provides for a two-level decrease for  
15 acceptance of responsibility. The Court finds that the  
16 defendant has accepted responsibility for the offense by  
17 pleading guilty before trial and by truthfully admitting the  
18 conduct comprising the offense. That decreases the offense  
19 level to eight.

20 The defendant has no criminal history. According to  
21 the sentencing table, zero criminal history points  
22 establishes a Criminal History Category of I.

23 Given a Total Offense Level of eight and a Criminal  
24 History Category of I, the advisory guideline range is as  
25 follows:

1           A term of imprisonment of zero to six months; a term of  
2 probation of not less than one or more than five years; a  
3 period of supervised release of one year; a fine of \$1,000  
4 to \$10,000; restitution; and a special assessment of \$100.

5           Mr. Wills, Mr. Schwartz, is there anything that either  
6 of you would like to place on the record regarding these  
7 calculations?

8           MR. MARK WILLS: No, Your Honor.

9           THE COURT: Ms. Schwartz, anything that you would  
10 like to say concerning my calculations?

11           MS. SCHWARTZ: The United States agrees with the  
12 Court's calculations, Your Honor.

13           THE COURT: Then, counsel, I will address and ask  
14 that you address any factors under 18 U.S.C. 3553(a) that  
15 you want to address prior to my administering sentence with  
16 respect to Mr. Wills. I'm happy to do those individually,  
17 but it would seem to me that I can address them after I've  
18 given both counsel an opportunity to address any 3553 factor  
19 that you choose to address.

20           Mr. Wills.

21           MR. MARK WILLS: Your Honor, you have the facts  
22 before you in the pre-sentence report. Mr. Wills has  
23 accepted responsibility for his crime. He has cooperated  
24 with the United States Government from, from day one.

25           When the, when the warrant was served at his office, he



1 cooperated. Ms. Schwartz called and asked for a meeting  
2 with Mr. Wills to come to Charleston, which he did, and met  
3 with the U.S. Attorney's Office. He cooperated without  
4 counsel. He, at their request, gave up his service revolver  
5 and his DEA license on that date.

6 He has -- he resigned as sheriff prior to any plea  
7 agreement, not wanting to harm the sheriff's department in  
8 any way. He, up to this point in his life, has led an  
9 exemplary life. He knows he did wrong, and he accepts that.

10 And based upon those factors, Your Honor, we would  
11 request that he be placed on probation and, if not, then  
12 allow him to be, serve his time in community incarceration  
13 and be allowed to seek treatment at the Williamsburg clinic,  
14 which is a ninety-day treatment facility, at a cost of  
15 \$40,000 to Mr. Wills.

16 In addition, since his plea, he has worked with the  
17 State Police in investigations. He has worked with the  
18 United States Postal Service, has met with them concerning  
19 investigations in other matters.

20 So, again, we request that Mr. Wills be placed on  
21 probation.

22 THE COURT: All right.

23 Ms. Schwartz, any position that the Government wants to  
24 take with respect to the 3553 factors?

25 MS. SCHWARTZ: I've addressed all the factors,

1 Your Honor, I believe, in the sentencing memorandum. So, I  
2 won't go over those. I do want to make two brief  
3 clarifications in response to what defendant's counsel just  
4 said.

5 The first is that when I requested Sheriff/Dr. Wills,  
6 the defendant here, to come to Charleston for a meeting, I  
7 did not specifically request that he come without counsel.  
8 I want to make that clear.

9 THE COURT: I did not understand that to be  
10 Mr. Wills's comment.

11 MS. SCHWARTZ: I didn't think he meant it either,  
12 but just for purposes of the record.

13 THE COURT: All right.

14 MS. SCHWARTZ: And, secondly, I would also  
15 indicate to the Court that the defendant has, in fact, met  
16 with Government officials on two occasions since he entered  
17 into his plea, once with the State Police and once with the  
18 Postal Inspector Service, because they were curious about  
19 what information he might have.

20 However, that information is not the type of  
21 information that the United States would be able to use in  
22 any significant way in the prosecution of someone else. He  
23 was, however, cooperative in meeting with them.

24 THE COURT: All right. Other than those factors,  
25 is there anything, counsel, that either of you or the

1 defendant want to state prior to disposition?

2 MR. MARK WILLS: Your Honor, I believe Mr. Wills  
3 would like to make a statement to the Court.

4 THE COURT: All right.

5 THE DEFENDANT: Your Honor, I just want to express  
6 that I do assume responsibility. I am sorry for my actions.  
7 I want to get on with my life. That's really all. I accept  
8 total responsibility.

9 THE COURT: All right.

10 THE DEFENDANT: I'm very sorry.

11 THE COURT: I apologize. I did not intend to  
12 interrupt you.

13 Mr. Mark Wills, anything that either you or co-counsel  
14 want to state prior to sentencing?

15 MR. MARK WILLS: Your Honor, I have nothing  
16 further. I believe the Court has all the information before  
17 it.

18 THE COURT: All right.

19 Ms. Schwartz, on behalf of the Government?

20 MS. SCHWARTZ: Nothing further on behalf of the  
21 United States, Your Honor.

22 THE COURT: All right.

23 As I've indicated, by law I'm required to address the  
24 factors of 18 U.S.C. 3553(a) prior to imposing sentence or  
25 address them prior to our leaving here today. I'm required

1 to give consideration to the nature and circumstances of the  
2 offense. You lawyers have, to some extent, addressed that  
3 here today, and you have addressed it in your sentencing  
4 memoranda.

5 I will, for purposes of the record, state that the  
6 defendant as an elected official of Mercer County, as  
7 sheriff, and as what I understand from my review of the  
8 pre-sentence report at the time a retired physician,  
9 continued, to some extent, to practice medicine in the  
10 office of the sheriff of Mercer County after being placed in  
11 that position.

12 According to the pre-sentence report, and I think  
13 there's no objection to the factual recitation contained in  
14 that report, he ordered drugs, paid for them with funds that  
15 were specifically allotted to the sheriff's budget.

16 There are factual statements contained in the  
17 pre-sentence report in addition that drugs were prescribed  
18 for at least one other individual, and the drugs were for  
19 the defendant's own personal use.

20 I think there have been statements made here today  
21 about his cooperation with law enforcement once this was  
22 brought to their attention. I have already indicated on the  
23 record that he has been given an acceptance of  
24 responsibility decrease in offense level based on his  
25 cooperation after the matter was brought to the attention of

1 law enforcement.

2 I also must, under 3553(a), give consideration to the  
3 need for the sentence imposed to reflect the seriousness of  
4 the offense and to promote respect for the law and provide  
5 just punishment.

6 In making a decision in that regard, I will state for  
7 purposes of the record I think the offense is a serious  
8 offense, Mr. Wills, in that you were in a position of trust.  
9 You were a physician. I think that in the conduct that  
10 brings us here today, you put the office of the sheriff at  
11 risk for liability.

12 Your actions also diminish the public's confidence in  
13 the office that you held. And you violated the trust of the  
14 office of sheriff, but also violated the oath, in my  
15 opinion, that you took as a medical provider or a physician.

16 So, I consider the offense to be one that is very  
17 serious and believe that it is necessary to take that into  
18 consideration.

19 I also take into consideration in making the  
20 determination about just punishment and a punishment or  
21 sentence that would promote respect that based on everything  
22 else that I have read, you have served the community for a  
23 long time in a very respectable manner. There's no prior  
24 criminal record. The letters of support speak well of your  
25 service in the community.

1       Quite frankly, based on my review, I think it surprised  
2 people who knew you when they found that you were in this  
3 position. And I take that into consideration as well in  
4 trying to determine an appropriate punishment and a sentence  
5 that will promote respect for the law.

6       I've also given consideration to those same factors  
7 when it comes to deterrence. And in giving consideration to  
8 any needed medical care or corrective treatment, educational  
9 or vocational training, I think that there is an agreement  
10 here, based on what I've been able to see, that there is a  
11 need for treatment for you, sir, given what's contained in  
12 the pre-sentence report, given the, what I'm going to call a  
13 misuse of controlled substances.

14       I also want to ensure that any sentence would avoid any  
15 other sentence disparities with defendants in the same  
16 position and with similar or the same circumstances. I'm  
17 going to, in that regard, give consideration to the  
18 Sentencing Guidelines, although I find that there is no  
19 presumption of their reasonableness.

20       And I want to ensure, however, that whatever sentence  
21 that I give will be one that -- will not be one that  
22 promotes any type of sentence disparities among people whom  
23 are similarly situated.

24       Having given consideration to all of the 3553 factors,  
25 including giving consideration to any policy, relevant

1 policy statements issued by the Sentencing Commission that  
2 would affect this particular sentence, my sentence is as  
3 follows.

4 It's the judgment of this Court that the defendant be  
5 committed to the custody of the Federal Bureau of Prisons  
6 for a term of six months. And I further order that he be  
7 placed on a period of supervised release for a term of one  
8 year.

9 I will order, with respect to the supervised release,  
10 Mr. Wills, that within 72 hours that you report in person to  
11 the United States Probation Office in the district to which  
12 you are released; that while you are on supervised release,  
13 you not commit any federal, state, or local crime. You must  
14 not possess a firearm or other dangerous device. And you  
15 must not unlawfully possess a controlled substance.

16 I also order that you not -- that you must comply with  
17 the standard terms and conditions of supervised release as  
18 recommended by the United States Sentencing Commission and  
19 as adopted by this Court, including the special condition  
20 that you participate in a program of treatment for drug and  
21 alcohol abuse as directed by your probation officer.

22 Again, giving consideration to this sentence, and  
23 confinement of six months, I've given consideration to the  
24 fact that you, so far as I could ascertain, up until this  
25 point, you were a model citizen, Mr. Wills. But I've also

1 given consideration to the seriousness of it, the impact of  
2 it in the community, as well as the fact that there is  
3 indicia in this report that even though there's acceptance  
4 of responsibility, that I am not totally convinced that you  
5 understand the real risk that you have of addiction given  
6 your past struggle with alcohol and given this particular  
7 situation with drugs.

8       You were in a position of trust. That confidence was  
9 placed in you by the voters. And as I've indicated  
10 previously, when you violated that, you diminished the  
11 office, and certainly diminished the public's confidence in  
12 that office.

13       Your actions -- I noticed when I was reading the  
14 defendant's sentencing memoranda, the argument was made that  
15 your actions were that of a physician and not that of a  
16 sheriff. And I want to place on the record and be very  
17 clear that I disagree with that statement, counsel. And I  
18 disagree with it because he was a sheriff. He was the face  
19 of the office. He was the face of law enforcement in Mercer  
20 County.

21       At the same time as a physician, he ordered medicines.  
22 He used funds from the sheriff's office to pay for those,  
23 and used some of those for his own use.

24       I've given consideration to the fact, in determining  
25 that this is a just and appropriate sentence, one that will



1 hopefully enhance the respect for the law and will also  
2 deter others and will deter Mr. Wills from any future  
3 conduct, that there are, based on the calculations in the  
4 pre-sentence report, approximately \$4,500 -- 4,500  
5 hydrocodone pills which were actually purchased. And most  
6 of those pills, 42-, almost 4,300 of them, 4,296 were  
7 unaccounted for.

8 Based on the facts of the case, 31 of those could be  
9 traced to patients. There were 173, Mr. Wills, in your  
10 possession when the search was conducted. And, again,  
11 according to the facts contained in the report, there were  
12 4,296 of them which could not be accounted for.

13 So, again, I believe that your actions were not only  
14 those of a physician, but that of a law enforcement officer,  
15 and that you tainted both professions being in a position of  
16 public trust.

17 Counsel, are there any motions at this time before I  
18 proceed?

19 MR. MARK WILLS: Not from the defense, Your Honor.

20 MS. SCHWARTZ: No, Your Honor.

21 THE COURT: All right. I am going to order a  
22 special assessment in this case in the amount of \$100.

23 I will also order that restitution be paid in this  
24 case. I am -- the crime in this case is one under 21 U.S.C.  
25 843(a)(3) and is not an offense under 18 U.S.C. 3663(a)(C)

1 for which a mandatory restitution applies.

2 Under 18 U.S.C. 3663 the Court may order the defendant  
3 to pay restitution to any victim of the offense. And given  
4 the facts of this case, counsel and Mr. Wills, I find that  
5 this is a crime with an identifiable victim, that being the  
6 Mercer County Commission.

7 However, in deciding whether to impose restitution, I  
8 am required to consider the amount of the loss sustained by  
9 the victim as a result of the offense and the financial  
10 resources of the defendant, the financial needs and earning  
11 ability of the defendant, and the defendant's dependents and  
12 such other factors as the Court deems appropriate.

13 Applying those factors, it's my finding that the amount  
14 of loss to the Mercer County Commission occasioned by this  
15 offense is \$863.54. And I'm going to order, Mr. Wills, that  
16 restitution be made in that amount.

17 I've taken into consideration your earning ability at  
18 this time, as well as your financial situation. And I find  
19 that you are capable of paying the restitution that was  
20 occasioned by the conduct that resulted in the charge in  
21 this particular case.

22 MR. MARK WILLS: Your Honor, --

23 THE COURT: Yes, sir.

24 MR. MARK WILLS: -- if I may, --

25 THE COURT: Yes, sir.

1 MR. MARK WILLS: -- Mr. Wills has already paid  
2 that, that amount.

3 THE COURT: I recall reviewing that in the  
4 pre-sentence report, but I want to make sure that there is  
5 an order --

6 MR. MARK WILLS: Yes, ma'am.

7 THE COURT: -- to that effect.

8 MR. MARK WILLS: Yes, ma'am.

9 THE COURT: Mr. Wills, I also want to advise you  
10 that you have a right to appeal this Court's sentence. If  
11 you want to appeal this sentence, you must file a written  
12 notice of appeal with the clerk of this court within 10 days  
13 of the clerk's entry of this court's order of sentence and  
14 judgment. If you fail to file a written notice of intent to  
15 appeal within that 10-day period, your right to appeal  
16 expires.

17 Do you understand that, sir?

18 THE DEFENDANT: Yes, Your Honor.

19 THE COURT: If you file a notice and the Court  
20 finds that you do not have the money to procure transcripts  
21 or other documents necessary to make your appeal or to pay  
22 for the services of a lawyer to represent you on your  
23 appeal, the costs will be borne by the United States.

24 Do you understand that as well?

25 THE DEFENDANT: Yes, Your Honor.

1           THE COURT: This sentence is a final judgment,  
2 Mr. Wills. Pursuant to 18 U.S.C. 3582, I cannot release you  
3 from prison or reduce or modify your sentence once the  
4 judgment is final unless the director of the Bureau of  
5 Prisons makes such a motion or the United States makes a  
6 motion pursuant to Rule 35 for substantial assistance. As a  
7 consequence, any letters written to me asking to change,  
8 reduce, or modify your sentence will be of no consequence.

9           Do you understand that?

10          THE DEFENDANT: Yes, Your Honor.

11          THE COURT: Because you were released, Mr. Wills,  
12 on a surety bond pending sentencing, the Bail Reform Act of  
13 1984 permits me to allow you to surrender voluntarily if  
14 there is clear and convincing evidence that you are not  
15 likely to flee and not likely to pose a danger to any other  
16 person or to the community if released.

17          Ms. Schwartz, what's the Government's position  
18 concerning his voluntary surrender?

19          MS. SCHWARTZ: Your Honor, we would agree with the  
20 recommendation of the Court's probation officer that  
21 voluntary surrender would be appropriate in this matter.

22          THE COURT: Anything further that the Government  
23 wants to offer on that matter?

24          MS. SCHWARTZ: No, Your Honor.

25          THE COURT: All right.

1           Anything further, Mr. Wills, from the defendant on that  
2 matter?

3           MR. MARK WILLS: No, Your Honor.

4           THE COURT: All right.

5           MR. MARK WILLS: We do request that, that he be  
6 allowed to voluntarily surrender. He poses no risk.

7           THE COURT: I find, given his conduct throughout  
8 the proceedings in this matter, that he should be allowed to  
9 surrender voluntarily. I find that he has, by his conduct,  
10 offered clear and convincing evidence that he's not likely  
11 to flee and is not likely to pose a danger to any other  
12 person or to the community if released.

13           Accordingly, I order that Mr. Wills be permitted to  
14 surrender voluntarily at the institution designated by the  
15 Bureau of Prisons as notified by the United States Marshal.

16           The defendant shall remain released upon the previously  
17 executed surety bond in the amount of \$10,000 subject to the  
18 conditions set forth in the order setting conditions of  
19 release previously entered in this case.

20           How much time, counsel, is he -- or are you making a  
21 request for him to voluntarily surrender?

22           MR. MARK WILLS: Your Honor, we have, of course,  
23 discussed this with Mr. Wills. I mean, he's ready to go  
24 whenever the prison is ready. So, --

25           THE COURT: All right. I want to also address the

1 issue of a fine which I'm told that I have neglected to do,  
2 counsel.

3 Any comment that you want to make in that regard?

4 MR. MARK WILLS: Your Honor, of course we would  
5 request that he not be fined. When he does get out of  
6 prison, he does want to seek treatment. He wants to get his  
7 life back in order. As I indicated to the Court, the  
8 treatment facility in Williamsburg is a cost of \$40,000.  
9 So, we'd ask the Court not to impose any additional fine.

10 THE COURT: Any position that the Government wants  
11 to take with respect to the fine?

12 MS. SCHWARTZ: No position from the United States,  
13 Your Honor.

14 THE COURT: All right. It's my finding, based on  
15 my review of the pre-sentence report, and given his current  
16 situation, that he does not have the resources to pay a  
17 fine. And I am, therefore, going to order that no fine be  
18 imposed, counsel.

19 MR. MARK WILLS: Thank you, Your Honor.

20 THE COURT: Anything further before we conclude  
21 the hearing here today from either of you?

22 MS. SCHWARTZ: No, Your Honor.

23 MR. MARK WILLS: No, Your Honor.

24 THE COURT: All right.

25 Mr. Wills, I -- there are some in this courtroom who

1 may not agree with this. I consider you to be a relatively  
2 young man who still has some life ahead of you. I hope that  
3 with some treatment and what's happened here today that  
4 you'll be able to put this behind you and get on with life  
5 afterwards.

6 I think a period of supervised release, quite frankly,  
7 will be of some assistance to you in doing that and in your  
8 effort to do it. I don't know of any reason why after you  
9 close this chapter you can't get back to who I'm told by the  
10 people who wrote on your behalf, the life that you were  
11 leading prior to this issue happening. I wish you the best,  
12 sir.

13 THE DEFENDANT: Thank you.

14 THE COURT: Anything further?

15 MS. SCHWARTZ: No, Your Honor.

16 MR. MARK WILLS: No, Your Honor.

17 THE COURT: All right. You-all have a good day.

18 Oh, I am sorry. I saw this and I didn't say it to you.

19 I'm sure your counsel has advised you, Mr. Wills, but  
20 before I go, I want to remind you of two more things  
21 regarding your voluntary surrender.

22 And, that is, first, if you knowingly fail to report as  
23 ordered, I can impose an additional sentence upon you up to  
24 two years in prison and a \$250,000 fine.

25 Second, if you commit any offense whatsoever before

1 your voluntary surrender date, then in addition to this  
2 sentence and in addition to any sentence for that offense, I  
3 would be required to impose an additional sentence.

4 If the offense you commit is a felony, I must sentence  
5 you to an additional term of imprisonment of up to 10 years.  
6 If the offense you commit is a misdemeanor, I must sentence  
7 you to an additional term of imprisonment of up to a year.  
8 These sentences would run consecutively with each other as  
9 opposed to running concurrently.

10 Do you understand that, sir?

11 THE DEFENDANT: Yes, Your Honor.

12 THE COURT: All right. Good luck to you.

13 (Proceedings concluded at 2:40 p.m.)  
14  
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25



1 I, Lisa A. Cook, Official Reporter of the United  
2 States District Court for the Southern District of West  
3 Virginia, do hereby certify that the foregoing is a true and  
4 correct transcript, to the best of my ability, from the  
5 record of proceedings in the above-entitled matter.  
6  
7

8 s/Lisa A. Cook

January 14, 2010

9 Reporter

Date

**UNITED STATES DISTRICT COURT**

**SOUTHERN DISTRICT OF WEST VIRGINIA**

UNITED STATES OF AMERICA

V.

DANNY RAY WILLS

Case Number: 1:09-CR-00159-01

USM Number: 08678-088

Defendant's Attorney: Mark E. Wills &  
William B. Flanigan

**JUDGMENT IN A CRIMINAL CASE**

**THE DEFENDANT :**

- ☒ pleaded guilty to Count One of a single-count Information.
- ☐ pleaded nolo contendere to count(s) \_\_\_\_\_ which was accepted by the court.
- ☐ was found guilty on count(s) \_\_\_\_\_ after a plea of not guilty.

The defendant is adjudicated guilty of these offenses:

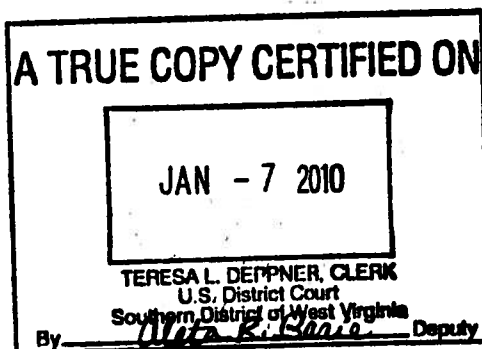
Title & Section	Nature of Offense	Offense Ended	Count
21 U.S.C. § 843(a)(3)	acquiring and obtaining possession of a quantity of hydrocodone by misrepresentation, fraud, deception and subterfuge	May 5, 2009	One

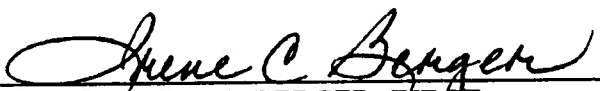
The defendant is sentenced as provided in pages 2 through 6 of this judgment.

- ☐ The defendant has been found not guilty on count(s) \_\_\_\_\_.
- ☐ Count(s) \_\_\_\_\_ is(are) dismissed on the motion of the United States.

It is ORDERED that the defendant must notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and the United States Attorney of material changes in economic circumstances.

Date of Imposition of Judgment: December 17, 2009  
Date Signed: January 5, 2010



  
IRENE C. BERGER, JUDGE  
UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF WEST VIRGINIA

**IMPRISONMENT**

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of **6 months**.

- ☐ The court **RECOMMENDS** the following to the Bureau of Prisons:
- ☐ The defendant is remanded to the custody of the United States Marshal.
- ☐ The defendant shall surrender to the United States Marshal for this district by 1:00 p.m. on \_\_\_\_\_.
- ☐ The defendant shall surrender to the United States Marshal for this district as notified by the United States Marshal.
- ☐ The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons by 1:00 p.m. on \_\_\_\_\_.
- ☒ The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons as notified by the United States Marshal.
- ☐ The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons as notified by the Probation or Pretrial Services Office.

**RETURN**

I have executed this judgment as follows:

Defendant delivered \_\_\_\_\_ to \_\_\_\_\_  
a \_\_\_\_\_, with a certified copy of this judgment.

\_\_\_\_\_  
United States Marshal

By \_\_\_\_\_  
Deputy United States Marshal

### **SUPERVISED RELEASE**

Upon release from imprisonment, the defendant shall be on supervised release for a term of **1 year**.

The defendant must report to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

The defendant shall not commit another federal, state or local crime.

The defendant shall not unlawfully possess a controlled substance. The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court.

Check if applicable:

- ☐ The above drug testing condition is suspended based on the court's determination that the defendant poses a low risk of future substance abuse.
- ☒ The defendant shall not possess a firearm, ammunition, destructive device, or any other dangerous weapon.
- ☒ The defendant shall cooperate in the collection of DNA as directed by the probation officer.
- ☐ The defendant shall register with the state sex offender registration agency in the state where the defendant resides, works, or is a student, as directed by the probation officer.
- ☐ The defendant shall participate in an approved program for domestic violence.

If this judgment imposes a fine or restitution, it is a condition of supervised release that the defendant pay in accordance with the Schedule of Payments page of this judgment.

The defendant must comply with the standard conditions that have been adopted by this court as well as with any additional conditions on the attached page.

### **STANDARD CONDITIONS OF SUPERVISION**

- 1) the defendant shall not leave the judicial district without the permission of the court or probation officer;
- 2) the defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependents and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation, unless excused by the probation officer for schooling, training, or other acceptance reasons;
- 6) the defendant shall notify the probation officer at least ten days prior to any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity and shall not associate with any person convicted of a felony, unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement or act as an informer or a special agent of a law enforcement agency without the permission of the court; and
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

**ADDITIONAL STANDARD CONDITIONS OF SUPERVISION**

While on supervised release, the defendant must not commit another federal, state, or local crime, must not possess a firearm or other dangerous device, and must not unlawfully possess a controlled substance. The defendant must also comply with the standard terms and conditions of supervised release as recommended by the United States Sentencing Commission and as adopted by the United States District Court for the Southern District of West Virginia, including the special condition that the defendant shall participate in a program of testing, counseling, and treatment for drug and alcohol abuse as directed by the probation officer, until such time as the defendant is released from the program by the probation officer.

### CRIMINAL MONETARY PENALTIES

The defendant must pay the total criminal monetary penalties as set out on the Schedule of Payments page.

	Assessment	Fine	Restitution
<b>TOTALS:</b>	\$100.00	\$0.00	\$863.54

- ☐ The determination of restitution is deferred until \_\_\_\_\_. An *Amended Judgment in a Criminal Case* will be entered after such determination.
- ☐ The defendant must make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

Name of Payee	Total Loss*	Restitution Ordered	Priority or Percentage
Mercer County Commission	\$863.54	\$863.54	
<b>TOTALS:</b>	\$863.54	\$863.54	

- ☐ Restitution amount ordered pursuant to plea agreement \$\_\_\_\_\_
- ☐ The defendant must pay interest on restitution and a fine of more than \$2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. §3612(f). All of the payment options on Page 6 may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).
- ☐ The court determined that the defendant does not have the ability to pay interest and it is ordered that the interest requirement is waived for the fine.
- ☐ The court determined that the defendant does not have the ability to pay interest and it is ordered that the interest requirement is waived for the restitution.
- ☐ The court determined that the defendant does not have the ability to pay interest and it is ordered that the interest requirement for the fine is modified as follows:
- ☐ The court determined that the defendant does not have the ability to pay interest and it is ordered that the interest requirement for the restitution is modified as follows:

\*Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

### SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties are due as follows:

- ☐ Lump sum payment of \$ \_\_\_\_\_ due immediately, balance due no later than \_\_\_\_\_.
- ☐ Lump sum payment of \$ \_\_\_\_\_ due immediately, balance due as set forth below:
- ☒ Special instructions regarding the payment of criminal monetary penalties: **Both the \$100.00 special assessment and the \$863.54 restitution have been paid in full.**

Unless the court expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the clerk of the court.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

- ☐ Joint and Several  
Defendant and Co-Defendant Names and Case Numbers (including defendant number), Total Amount, Joint and Several Amount, and corresponding payee, if appropriate.
- ☐ The defendant shall pay the cost of prosecution.
- ☐ The defendant shall pay the following court cost(s):
- ☐ The defendant shall forfeit the defendant's interest in the following property to the United States:

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) fine interest, (6) community restitution, (7) penalties, and (8) costs, including cost of prosecution and court costs.

**CERTIFICATE OF SERVICE**

I, Deborah Lewis Rodecker, General Counsel for the West Virginia Board of Medicine, do hereby certify that I have served the foregoing **ORDER OF REVOCATION OF LICENSE TO PRACTICE MEDICINE AND SURGERY** by placing a copy in the United States mail, certified, postage prepaid, on March 8, 2010, addressed as follows to Dr. Wills and his counsel of record:

**Danny Ray Wills, M.D.  
330 Oakvale Road  
Princeton, WV 24740**

**Mr. Mark E. Wills  
Wills Law Office  
1617 North Walker Street  
Princeton, WV 24740**

A handwritten signature in blue ink that reads "Deborah Lewis Rodecker". The signature is written in a cursive style with a horizontal line underneath the name.

**Deborah Lewis Rodecker  
West Virginia State Bar # 3144  
West Virginia Board of Medicine  
101 Dee Drive, Suite 103  
Charleston, West Virginia 25311  
304.558.2821 ext. 214**